



(BILLING CODE 3510-P)

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-832]

Pure Magnesium from the People's Republic of China: Final Results of the 2009-2010 Antidumping Duty Administrative Review of the Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On June 8, 2011, the Department of Commerce ("Department") published in the *Federal Register* the preliminary results in the 2009-2010 antidumping duty administrative review of pure magnesium from the People's Republic of China ("PRC").<sup>1</sup> The period of review ("POR") is May 1, 2009, through April 30, 2010. We initiated an administrative review of the antidumping duty order on pure magnesium from the PRC with respect to Tianjin Magnesium International Co., Ltd. ("TMI"). We determined that TMI did not make sales in the United States at prices below normal value ("NV") in the *Preliminary Results*. We invited interested parties to comment on our *Preliminary Results*. Based on our analysis of the comments received, we made changes to the margin calculations for TMI. The final dumping margin for this review is listed in the "Final Results Margins" section below.

EFFECTIVE DATE: [insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Eve Wang, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6231.

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<sup>1</sup> See *Pure Magnesium from the People's Republic of China: Preliminary Results of the 2009-2010 Antidumping Duty Administrative Review*, 76 FR 33194 (June 8, 2011) ("*Preliminary Results*").

## Background

On June 8, 2011, the Department published its *Preliminary Results* of the antidumping duty administrative review of pure magnesium from the PRC.<sup>2</sup>

On June 28, 2011, U.S. Magnesium LLC (“Petitioner”) and TMI submitted publicly available surrogate value (“SV”) data to value TMI’s factors of production (“FOPs”). On July 8, 2011, both Petitioner and TMI submitted rebuttal comments concerning valuation of FOPs.

On June 21, 2011, the Department determined that it would rely on a single surrogate country to value labor, and would use labor data from the International Labour Organization (“ILO”) Yearbook Chapter 6A as its primary data source.<sup>3</sup> On July 12, 2011, the Department placed Chapter 6A Indian labor cost data and a new surrogate wage rate on the record for this review.

Pursuant to the bi-furcated briefing schedule issued by the Department on June 21, 2011, Petitioner and TMI timely submitted case and rebuttal briefs on multiple issues.

On September 20, 2011, the Department rejected two of Petitioner’s submissions because the Department determined these submissions were untimely filed.<sup>4</sup> On September 23, 2011, Petitioner requested that the Department reject certain content in TMI’s August 15, 2011 rebuttal brief, claiming that the content was an affirmative argument, rather than a rebuttal to Petitioner’s case brief, and thus untimely. TMI filed a response to Petitioner’s claim on September 26, 2011. On September 27, 2011, the Department declined to reject the

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<sup>2</sup> *Id.*

<sup>3</sup> See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (“*Labor Methodologies*”).

<sup>4</sup> See Memorandum to the File, “Rejection of Certain Untimely Submitted Information from the Record of this 2009-2010 Administrative Review of Pure Magnesium From the People’s Republic of China,” dated September 20, 2011.

information because it determined that TMI's argument rebuts an argument raised by Petitioner in its case brief in accordance with the Department's regulations.<sup>5</sup>

On September 16, 2011, the Department extended the deadline for the final results of review to November 21, 2011.<sup>6</sup> The Department held a public hearing on September 27, 2011.<sup>7</sup>

Following the time period for case and rebuttal briefs, the Department discovered that it inadvertently omitted the underlying data used in making its preliminary determination of the surrogate value for truck freight as well as the financial statements of an Indian company. To remedy this oversight, the Department subsequently placed the data on the record<sup>8</sup> and afforded interested parties an opportunity to comment on the data.<sup>9</sup> Subsequently, the Department extended the deadline of the final results to December 5, 2011 to review the submitted comments.<sup>10</sup>

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs<sup>11</sup> filed by parties in this review are addressed in the Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, "Pure Magnesium from the People's Republic of China: Issues and

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<sup>5</sup> See Memorandum to the File, "Petitioner's September 23, 2011 Request to Reject Certain Argument in Tianjin Magnesium International's ("TMI") August 15, 2011 Rebuttal Brief," dated September 27, 2011.

<sup>6</sup> See *Pure Magnesium from the People's Republic of China: Extension of Time for the Final Results of the Antidumping Duty Administrative Review*, 76 FR 59111 (September 23, 2011).

<sup>7</sup> Petitioner requested a hearing for issues raised in the case and rebuttal briefs on July 8, 2011; see Petitioner's submission, "Pure Magnesium From The People's Republic of China: Petitioner's Request For A Hearing," dated July 8, 2011.

<sup>8</sup> See Memorandum to the File, "The 2006-2007 Financial Statements for Madras Aluminum Company ("MALCO") and *Infobanc* Truck Freight Rate Data," dated October 4, 2011.

<sup>9</sup> See Memorandum to the File, "Soliciting Comments on the 2006-2007 Financial Statements for Madras Aluminum Company ("MALCO") and *Infobanc* Truck Freight Rate Data," dated November 1, 2011.

<sup>10</sup> See *Pure Magnesium From the People's Republic of China: Second Extension of Time for the Final Results of the Antidumping Duty Administrative Review*, 76 FR 70709 (November 15, 2011).

<sup>11</sup> Including comments timely filed in response to the Department's release of certain information on October 4, 2011 and November 1, 2011.

Decision Memorandum for the Final Results of the 2009-2010 Administrative Review,” dated November 21, 2011 (“Issues and Decision Memorandum”), which is hereby adopted by this notice. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum follows as an appendix to this notice. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendation in this public memorandum which is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Services System (“IA ACCESS”). Access to IA ACCESS is available in the Central Records Unit (“CRU”) of the main Commerce Building, Room 7046. In addition, a complete version of the Issues and Decision Memorandum is accessible on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic versions of the Issues and Decision Memorandum are identical in content.

#### Period of Review

The POR is May 1, 2009, through April 30, 2010.

#### Scope of the Order

Merchandise covered by the order is pure magnesium regardless of chemistry, form or size, unless expressly excluded from the scope of the order. Pure magnesium is a metal or alloy containing by weight primarily the element magnesium and produced by decomposing raw materials into magnesium metal. Pure primary magnesium is used primarily as a chemical in the aluminum alloying, desulfurization, and chemical reduction industries. In addition, pure magnesium is used as an input in producing magnesium alloy. Pure magnesium encompasses products (including, but not limited to, butt ends, stubs, crowns and crystals) with the following primary magnesium contents:

(1) Products that contain at least 99.95% primary magnesium, by weight (generally referred to as “ultra pure” magnesium);

(2) Products that contain less than 99.95% but not less than 99.8% primary magnesium, by weight (generally referred to as “pure” magnesium); and

(3) Products that contain 50% or greater, but less than 99.8% primary magnesium, by weight, and that do not conform to ASTM specifications for alloy magnesium (generally referred to as “off-specification pure” magnesium).

“Off-specification pure” magnesium is pure primary magnesium containing magnesium scrap, secondary magnesium, oxidized magnesium or impurities (whether or not intentionally added) that cause the primary magnesium content to fall below 99.8% by weight. It generally does not contain, individually or in combination, 1.5% or more, by weight, of the following alloying elements: aluminum, manganese, zinc, silicon, thorium, zirconium and rare earths.

Excluded from the scope of the order are alloy primary magnesium (that meets specifications for alloy magnesium), primary magnesium anodes, granular primary magnesium (including turnings, chips and powder) having a maximum physical dimension (*i.e.*, length or diameter) of one inch or less, secondary magnesium (which has pure primary magnesium content of less than 50% by weight), and remelted magnesium whose pure primary magnesium content is less than 50% by weight.

Pure magnesium products covered by the order are currently classifiable under Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings 8104.11.00, 8104.19.00, 8104.20.00, 8104.30.00, 8104.90.00, 3824.90.11, 3824.90.19 and 9817.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Changes Since the Preliminary Results

Based on an analysis of the comments received, the Department has made certain changes in TMI's margin calculation. For the final results, the Department has made the following changes:

- We based our determination of the surrogate financial ratios on the financial statements of Hindalco Industries Limited rather than Bharat Aluminum Co., Ltd. *See* Comment 5 of the accompanying Issues and Decision Memorandum.
- Consistent with our current practice, we revised the surrogate value for direct labor, indirect labor and packing labor to account for industry-specific wage rates. *See* Comment 3 of the accompanying Issues and Decision Memorandum.
- We changed the source of the calculation of the SV for dolomite to GTA data. *See* Comment 7 of the accompanying Issues and Decision Memorandum.
- We revised our calculation of the SV for the by-product offsets of coal tar and magnesium waste to use the HTS 2706.00.10 and HTS 2620.99, respectively. *See* Comments 10 and 11 of the accompanying Issues and Decision Memorandum.
- We added three reported U.S. sales expense fields to the margin calculation program: Inland Freight from the Warehouse to the Customer ("INLFPWU"), U.S. Inventory ("INVENTORY"), and Warehouse Handling ("WHHANDLING"), which were inadvertently omitted in the *Preliminary Results*. *See* Comment 9 of the accompanying Issues and Decision Memorandum.

#### Final Results Margin

The weighted-average dumping margins for the final results are as follows:

Exporter	Weighted-Average Margin (percentage)
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Exporter	Weighted-Average Margin (percentage)
Tianjin Magnesium International Co. Ltd.	0.00 %

### Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (“CBP”) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For assessment purposes, we calculated importer (or customer)-specific assessment rates for merchandise subject to this review. Where appropriate, we calculated an *ad valorem* rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total entered values associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting *ad valorem* rate against the entered customs values for the subject merchandise. Where appropriate, we calculated a per-unit rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject merchandise. Where an importer (or customer)-specific assessment rate is *de minimis* (*i.e.*, less than 0.50 percent), the Department will instruct CBP to assess that importer (or customer’s) entries of subject merchandise without regard to antidumping duties, in accordance with 19 CFR 351.106(c)(2). The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for TMI, the cash deposit rate will be the rate listed above; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 111.73 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. The deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.



### Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective orders (“APO”) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

### Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

We are issuing and publishing the final results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

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Christian Marsh  
Acting Assistant Secretary  
for Import Administration

December 5, 2011\_\_\_\_\_  
(date)

## **Appendix I**

Comment 1: Whether the Department Should Apply Partial Adverse Facts Available to TMI

Comment 2: Whether the Department Should Continue to Treat the Identity of TMI's Supplier and the Supplier's Business Operation as Business Proprietary Information

Comment 3: Wage Rate

Comment 4: Whether the Department Should Treat Retorts as a Direct Material

Comment 5: Selection of Surrogate Financial Statements and Calculation of Financial Ratios

Comment 6: Whether the Department Should Grant TMI By-Product Offsets for Magnesium Waste and Cement Clinker

Comment 7: Valuation of Dolomite

Comment 8: The Source of the Surrogate Value for Truck Freight

Comment 9: Ministerial Errors in the Preliminary Results

Comment 10: The Surrogate Value for Coal Tar

Comment 11: Valuation of Magnesium Waste

Comment 12: The Per-Unit Basis for Steel Bands

Comment 13: Valuation of Flux